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Attorneys for Mary A. Bottoms, trustee of  
the Bottom Family 1989 Trust, and  
The Blue Oak Charitable Fund, a California  
non-profit public benefit corporation

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MARY A. BOTTOMS, trustee for the  
Bottoms Family 1989 Trust; and THE BLUE  
OAK CHARITABLE FUND, a California  
non-profit public benefit corporation,

Plaintiffs,

vs.

ATKN COMPANY OF CALIFORNIA, f/k/a  
Guy F. Atkinson Company of California;  
ATKN COMPANY, a Nevada corporation,  
f/k/a/ Guy F. Atkinson Company,

Defendants.

CASE NO. C-05-3045 SI

**JOINT APPLICATION AND  
STIPULATION TO AMEND THE  
PRETRIAL PREPARATION ORDER**

AS AMENDED

The parties to this action jointly stipulate and apply for a change in the Pretrial Preparation Order to change the dates for various benchmarks in the progress of this action.

The reasons for this request are as follows:

(1) This is an environmental damage case that concerns events from more than 10 years ago. The defendant in this action – ATKN --is defunct. That is, it is being or has been liquidated in bankruptcy. Most of the employees are gone; the documents are in storage. Conducting discovery has been a slow process for both parties, but obtaining relevant documentation from

1 defendant is unusually time consuming. It requires identifying potentially relevant documents  
 2 from cryptic document storage lists, retrieving the documents, reviewing the documents. It will  
 3 then require time to find the people who are knowledgeable about the company's specific  
 4 activities.

5 We are proceeding apace – identifying and reviewing documents, etc. but our actual  
 6 experience shows that this has gone slower than anticipated. The time it has taken to conduct  
 7 discovery leads us to recognize that the current discovery cut off date is unrealistic.

8 Unfortunately, *neither* party has completed its discovery and neither is in a position to stop  
 9 conducting discovery as of July 2, 2007. If we had to close discovery at this point in time, it  
 10 would prejudice both parties.

11 It would also interfere with our ability to sensibly settle the case. We have already  
 12 conducted one mediation session and we are endeavoring to collect additional information in  
 13 advance of another, perhaps extended, session. But this will not be reasonably possible under the  
 14 current discovery cut off schedule. To put this another way, extending the discovery cut off will  
 15 make settlement far more likely.

16 (2) In contemplating a new discovery cut off date and a new trial date, we have tried to  
 17 take into account the trial schedule of counsel. Counsel already have trials set for August, 2008.  
 18 Accordingly, we are requesting that the new schedule for this case aim for a trial in October, 2008.

19 We have meet and conferred and we believe that this would be an achievable and efficient  
 20 schedule for this case:

21	NON EXPERT DISCOVERY CUT OFF:	January 30, 2008
22	DESIGNATION OF EXPERTS:	February 29, 2008
23	DESIGNATION OF REBUTTAL EXPERTS	March 21, 2008
24	EXPERT DISCOVERY CUTOFF	April 18, 2008 <sup>16</sup>
25	DISPOSITIVE MOTIONS FILED BY:	May, 23, 2008
26	OPPOSITION DUE	June 6, 2008
27	REPLY DUE	June 13, 2008

HEARING DATE

June 27, 2008

PRETRIAL CONFERENCE

September 16, 2008

TRIAL

September 29, 2008

We respectfully request that the Court issue a new Pretrial Preparation Order reflecting these new dates.

SO STIPULATED:

DATED: June 29, 2007

LELAND, PARACHINI, STEINBERG,  
MATZGER & MELNICK, LLP

By: s/Mitchell Chyette  
Mitchell Chyette  
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Oak Charitable Fund, a California non-profit  
public benefit corporation

DATED: June 29, 2007

GOLDSBERRY, FREEMAN GUZMAN  
DITORA, LLP

By: s/Francis M. Goldsberry III  
Francis M. Goldsberry III  
Attorneys for ATKN

A further case management conference has been scheduled to occur on Friday, July 27, 2007, at 2:30 p.m. A joint case management conference statement shall be filed one week prior to the conference.

